

**REMARKS**

The Decision on Appeal of July 25, 2006 (hereinafter “the Decision”), has been received and reviewed.

Claims 1-87 are pending in the above-referenced application. Claims 18-87 have been withdrawn from consideration.

Each of claims 1 and 3-7 stands rejected, while there are no remaining rejections against any of claims 2 or 8-17.

Reconsideration of the above-referenced application is respectfully requested.

**Rejections under 35 U.S.C. § 103(a)**

Claims 1 and 3-7 stand rejected under 35 U.S.C. § 103(a).

The standard for establishing and maintaining a rejection under 35 U.S.C. § 103(a) is set forth in M.P.E.P. § 706.02(j), which provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

**Kikuchi in View of Yoshihara**

Claims 1 and 3-7 stand rejected under 35 U.S.C. § 103(a) for reciting subject matter which is assertedly unpatentable over that taught in U.S. Patent 6,278,153 to Kikuchi et al. (hereinafter “Kikuchi”), in view of teachings from U.S. Patent 6,117,486 to Yoshihara. Applicants respectfully traverse this rejection.

Amended independent claim 1 recites a method that includes disposing material so as to substantially fill at least one recess and such that a surface of the disposed *material* (no longer just the material within the at least one recess) is substantially planar.

It has been explained in the Decision that “claim 1, prior to the amendment presented herewith, only requires that the upper surface be substantially planar ‘over or within said at least one recess.’” Decision, page 10. The Board has also acknowledged that Yoshihara teaches that “spin coating, by itself, does not typically result in a planar surface.” Decision, page 6. Furthermore, the Board agrees that Kikuchi’s drawings by themselves cannot be relied on to disclose a substantially planar surface. Decision, page 6.

In view of the Board’s view of the subject matter that is and is not taught by Yoshihara and Kikuchi, it is respectfully submitted that neither of these references teaches or suggests a method that includes disposing material so as to substantially fill at least one recess and such that a surface of the disposed *material* is substantially planar. It is, therefore, respectfully submitted that the teachings of Yoshihara and Kikuchi, taken either separately or together, do not support a *prima facie* case of obviousness against amended independent claim 1, as would be required to maintain the 35 U.S.C. § 103(a) rejection of independent claim 1.

Claims 3-7 are each allowable, among other reasons, for depending directly or indirectly from independent claim 1, which is allowable.

### **Remaining Claims**

The Board left it “to the Examiner to determine whether appropriate rejections can be made against any of the other claims on appeal” based upon the Board’s new rejection of claim 1. Decision, page 12.

As claims 2 and 8-17 depend directly or indirectly from allowable independent claim 1, it is respectfully submitted that each of these claims is also allowable.

Claim 2 is additionally allowable since both Yoshihara and Kikuchi lack any teaching or suggestion of disposing material so as to substantially fill at least one recess without substantially covering a surface of a semiconductor device. With respect to the teachings of Yoshihara, the Board has explained at page 10 of the Decision, “Yoshihara teaches that the thickness of the layer on the surface of the device is the same as the thickness of the layer within the recesses.”

Claim 8 is additionally allowable for reciting upon exposing material disposed over an entirety of a semiconductor device structure to an etchant, material covering a surface of the

device is substantially removed therefrom, while material located in at least one recess substantially fills the at least one recess.

Claim 15 is also allowable since Yoshihara and Kikuch both lack any teaching or suggestion of disposing a stress buffer over an insulator layer such that the stress buffer has a substantially planar surface without removing material thereof following the act of disposing. Under the Board's reasoning, a stress buffer disposed according to the teachings of Yoshihara would include nonplanarities. *See, e.g.*, Decision, page 10. Therefore, the stress buffer of Yoshihara would not, without removing material thereof following the act of disposing, have a substantially planar surface.

Claim 17 is further allowable because neither Yoshihara nor Kikuchi teaches or suggests a method that includes disposing a stress buffer over a conductive layer with a nonplanar surface, the stress buffer having a substantially planar surface without removing material thereof following the disposing. Again, at page 10 of the Decision, the Board has clearly indicated that neither Yoshihara nor Kikuchi teaches a material application method that results in material with a substantially planar surface.

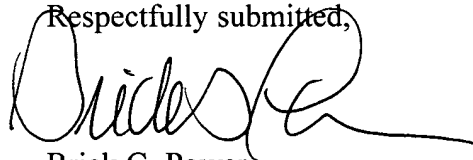
#### **Election of Species Requirement**

It is respectfully submitted that since amended independent claim 1 remains generic to all of the species of invention that have been identified by the Office, claims 18-88 should be returned to consideration allowed. M.P.E.P. § 806.04(d).

**CONCLUSION**

It is respectfully submitted that each of claims 1-88 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brick G. Power", written over the typed name.

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